



U.S. Department of Justice

EXHIBIT B

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To: All Defense Counsel

Re: United States v. Gerald Johnson et al., JKB-16-363

Dear Counsel,

Last week, we provided notice that on October 16, 2017, FBI investigators provided us with audio recordings and linesheets generated in connection with a separate investigation of criminal activity at the Chesapeake Detention Facility. In response to a discovery request by Mr. Francomano, we write to supplement the information that we provided in our original letter.

We have explained that as part of their investigation, the FBI installed video and audio recording devices inside a multi-purpose room on D pod at CDF. The device was installed on August 24, 2017 by an employee of the Maryland Department of Public Safety and Correctional Services, under the supervision of the FBI. Although the device was recording between August 24 and September 6, FBI investigators were unable to generate a signal that would transmit live audio and video feeds outside the jail. This problem was corrected on September 6. Real-time monitoring of the devices began on that date, and they continued until October 4, when the devices were removed.

In response to an additional question from Mr. Francomano, we note that no detainee participated in the installation of the device or in the recording of conversations or other activity. Rather, as described above, the device was placed *by law enforcement* inside the room on August 24, and it remained in that location until it was removed.

The room in which the devices were placed is approximately 5' x 7'. There are glass windows on two walls – one facing a hallway, to which detainees have access, and the other facing an office reserved for CDF staff (*i.e.*, correctional officers). There is a camera in the hallway outside, which enables jail administrators to see who is entering and exiting the room at all times. The room contains a computer, which detainees can use to access a Lexis-Nexis program for the purpose of conducting research. On weekends, the room is also used as a “barber shop.” Notably, the room is not used for privileged attorney-client, spousal, medical, or priest-penitent interactions/communications. It is therefore the government’s position that detainees do not have a reasonable expectation of privacy in the room, just as they do not have a reasonable expectation of privacy in their cells or in other common areas of the jail.

The devices were installed with the approval of DOJ’s Office of Enforcement Operations and the concurrence of the United States Marshals Service and CDF staff. As we have previously

Finally, with respect to the audio recordings and linesheets, we reiterate our request that all counsel provide us with a 128 GB hard drive, so that we can produce those materials to you as soon as possible. As of this writing, we have received a hard drive only from Mr. Bussard, to whom the recordings and linesheets will be produced no later than Monday.

Very truly yours,

By: /s/
Peter J. Martinez
Christina A. Hoffman
Assistant United States Attorneys